

Appl. No. : 09/584,656
Filed : May 30, 2000

REMARKS

In the Office Action mailed on June 3, 2004, the Examiner allowed Claims 72-76 and rejected the remaining pending claims not considered to be withdrawn from consideration, *i.e.*, Claims 53-55, 59, 65, 68-69 and 71. Applicant submits herewith a Declaration of Prior Inventorship Under 37 CFR §1.131 with the present Response to overcome the rejections.

Allowable Subject Matter

Applicants note with appreciation that Claims 72-76 have been allowed. Applicants respectfully submit that the remaining pending claims are also allowable in view of the remarks below.

Rejections Under 35 U.S.C. §103

The Examiner has rejected Claims 53-55, 59, 65, 68-69 and 71 under 35 U.S.C. § 103(a) as being unpatentable over Ratliff *et al.* (U.S. Patent No. 6,300,600) in view of Bahng (U.S. Patent No. 5,199,483). The Examiner has stated that "Ratliff *et al.* discloses all the claimed limitations except for the specific spacing between the heat exchange member and the substrate." Bahng is asserted to satisfy this deficiency.

Applicants respectfully traverse the rejections and submit that Ratliff *et al.* is not available as prior art in this case. Applicants submit herewith a Declaration of Prior Inventorship Under 37 C.F.R. §1.131. The Declaration shows that the subject matter of the present Application was conceived prior to August 12, 1998, the earliest claimed priority date of Ratliff *et al.*, and that the inventor worked with due diligence from prior to August 12, 1998 up to at least the filing date of the present Application. As a result, Applicant submits that Ratliff *et al.* is not available as prior art against independent Claims 53 and 65. Consequently, Applicants request the withdrawal of the rejections under 35 U.S.C. § 103(a) of Claims 53 and 65, and Claims 54-55 and 59 depending from Claim 53 and Claims 68-69 depending from Claim 65.

Accordingly, Applicant submits that the pending claims are allowable over the art of record. Applicant has not addressed the further rejections of dependent claims as being moot in view of the remarks herein. However, Applicant expressly does not acquiesce in the Examiner's findings not addressed herein. Indeed, Applicant submits that the dependent claims recite further novel and non-obvious features of particular utility.

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CONCLUSION

In view of the foregoing remarks, Applicants submit that the application is in condition for allowance and respectfully request the same. If some issue remains that the Examiner feels may be addressed by Examiner's amendment, the Examiner is cordially invited to call the undersigned for authorization.

Respectfully submitted,

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Dated: September 1, 2004

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